



TRAFFIC LAW NEWSLETTER April, 2008

SAVE A LAWYER, RIDE IN A TAXI



Just about all of my cases come from referrals from people like you. I do very little advertising. I have a website, but I don't take out premium ad space on Google or Yahoo. For the past 5 years I have had a banner at the Loafing, Leprechaun's big St. Patrick Day parties. My office is right next to the Irish Pub, and I have been known to frequent the place on occasion. (Contrary to rumor, however, I do NOT have my own bar stool there, although sometimes the waiters do holler "Hey Mickey!" when I walk in.

This year's event was billed as Atlanta's biggest St. Patrick Day party, what with the day starting around 8am and the Atlanta band "Drivin and Cryin" playing in the afternoon. This year I decided to do something in addition to the banner; I sponsored a Free Taxi Service from 7pm to 11pm. The idea was that instead of soliciting business from folks who had already gotten a DUI, I would try to do something to prevent them from getting a DUI in the first place. I guess it was a sort of reverse advertising idea. You've heard of the song "Save a Horse, Ride a Cowboy"? This was "Save a Lawyer, Ride In a Taxi!"

I had no idea whether anyone would use the taxi service, but by all accounts it was a huge success. Apparently there were about 25 taxi trips, which means that there were at least 25 less drunk drivers on the road that night. The folks at the Leprechaun were tremendously helpful by plastering my "Free Taxi Notices" all around the pub.

The Taxi service was Tim's Cab & Limo, 678-858-4958, and the driver Hannibal was on time and very professional.

Under our justice system, everyone accused of a crime is entitled to zealous and competent representation. I truly believe that I meet both of those criteria for my clients. At the same time, I do not know anyone, including DUI Defense lawyers, who condone drunk driving. I represent many folks who really are not impaired; I also represent folks who have had way too many drinks and should not be driving, and may need some help, in which case I try my best to encourage them to get help. I'm glad the taxi service was a success, and may try it again both on St. Patrick's Day and other traditionally big drinking holidays.

PAY BOND ONLINE NOW!

The Gwinnett Sheriff will now allow people to post bond online for someone charged with a misdemeanor. People can go to www.GwinnettBail.com and use valid credit or debit cards to pay misdemeanor bonds up to \$2,500. A nonrefundable online processing fee of 10% applies in addition to a \$13.00 bond writing fee. For a \$2,500 bond, that means paying an extra \$263, but that may be worth it for someone who lives out of town or cannot get to the jail.

NEW LAWS AWAITING GOV'S SIGNATURE

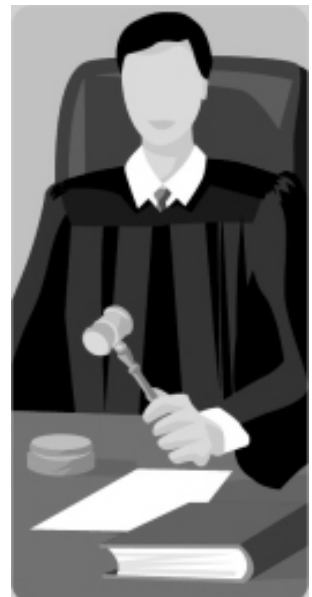
These are just a few new bills passed by the Georgia legislature this session, awaiting Governor Perdue's signature:

- A 4th DUI in 10 years will be a felony.
- Mandatory 2 days in jail for driving without a valid Georgia drivers license, felony on 4th offense.
- A new crime where a person causes an accident and fails to render aid and a death occurs because of the failure to render aid. This law also includes boating accidents.
- A law allowing Georgians to take wine home from restaurants, as long as it is resealed and put in the trunk or locked glove compartment.
- A law allowing limos to sell alcohol.
- A law allowing Georgians to order wine over internet or telephone and have it shipped directly from the wineries to home.

ANATOMY OF AN ADMINISTRATIVE LICENSE HEARING

Last month we looked at the anatomy of a DUI stop. Now let's look at one of the more confusing aspects of a DUI case, the Administrative License Hearing.

Georgia law says that any person stopped of a suspected DUI has "impliedly" consented to giving blood, breath, urine, or other bodily substances upon request by the police officer. Generally, once the officer places a person under arrest for DUI, the officer then reads from the Implied Consent card, and requests, generally, a breath test at the jail. That test is considered the State test. Any portable breath test given at the scene is merely another field test.



ANATOMY OF AN ADMINISTRATIVE LICENSE HEARING (continued)

Georgia law states that if a person registers above the limit on the State test (.02 for underage drivers, .04 for Commercial drivers, .08 for the rest of us) or refuses to take the test, the State can suspend your license even before you get to court on the DUI.

After the arrest, the officer completes a form, called a 1205 form, in which he lists the reason your license should be suspended. He sends in the original to Driver's Services and you will normally get a copy (yellow) when released from jail; the form acts as a temporary 30 day permit to drive.

You have 10 business days from the date of arrest in which to request a hearing to keep your license from being administratively suspended. If you do not send in the request in a timely manner, your license is automatically suspended. Suspension times vary from 1 to 3 years depending on previous administrative license suspensions. A limited permit is available on a first suspension in 5 years, but only if you take whatever test the officer requests. A refusal can result in a 1 year suspension, with no work permit!

Once the hearing request is received by Driver's Services, the case is sent to the Office of Administrative Hearings and you receive a hearing notice, normally about 30 to 60 days after you send in the request. Your license to drive is automatically extended by sending in the request for a hearing.

The hearing is held in front of an administrative judge appointed by the State. (In other words, these hearings are not held in front of county or city judges). Normally one of three scenarios takes place at the hearing. First, the officer does not show up, meaning your license is valid and will remain valid until the DUI case is resolved. Second, the officer shows up and you reach an agreement with the officer (most of the time the officer does not have a lawyer there) to withdraw the administrative hearing in return for a guilty plea to DUI or perhaps reckless driving at your DUI court appearance. Third, an agreement cannot be reached and a hearing is needed.

At the hearing, the judge is only concerned with: Did the officer believe you might be DUI; did he read the implied consent notice and request a test(s), and did you register above the limit or refuse to take the test. MOST of the time, if a hearing is held, your license is suspended!

So, Administrative hearings are an important part of any DUI case, and therefore must be taken seriously!

MY 4 SIMPLE RULES IF YOU ARE STOPPED BY POLICE

1. DON'T ADMIT DRINKING (OR ANYTHING ELSE)
2. DON'T DO ANYTHING ON SIDE OF ROAD
3. DO TAKE BREATH TEST IF YOU'VE REALLY HAD 2 DRINKS
4. DON'T TAKE TEST IF MORE THAN 2 DRINKS*



* Refusing to take the State test (at jail or hospital) could result in losing your license for a full year; the only way of getting the license back earlier is to win the DUI; on the other hand, if the officer does not try to suspend the license because of a refusal, the State does not have a blood alcohol level to use against you!

MY 1 SIMPLE RULE FOR PARENTS OF CHILDREN UNDER AGE 21

If your child gets a traffic ticket, regardless of how minor you may think it is, **DO NOT PAY TICKET WITHOUT CALLING ME!!!**

WHAT DO I DO IF STOPPED BY THE POLICE??

For the answer, [see my page on "your legal rights"](#) and [print out a copy](#) to keep in your car!



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Practice dedicated exclusively to defense of those accused of
DUI, serious traffic offenses, and drug offenses.
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